

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**(Attorney Docket No. 14177US02)**

In the Application of:

Ed H. Frank

**Electronically Filed on August 14, 2009**

Serial No. 10/658,310

Filed: September 9, 2003

For: METHOD AND SYSTEM FOR  
PROVIDING MULTIPLE  
ENCRYPTION IN A MULTI-  
BAND MULTI-PROTOCOL  
HYBRID WIRED/WIRELESS  
NETWORK

Examiner: Carlton Johnson

Group Art Unit: 2436

Confirmation No. 2145

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on 5/7/09 (the Final Office Action) and the 7/14/09 Advisory Office Action ("Advisory Office Action") with a period of reply through 9/7/09, pursuant to a one month extension. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

**REMARKS/ARGUMENTS**

The present application includes pending claims 1-42, all of which have been rejected. Claims 1, 6-9, 12-15, 20-23, 26-29, 34-37 and 40-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over USPP 20030140131 ("Chandrashekhar") in

view of USP 6,751,729 ("Giniger"), and further in view of USP 7,174,564 ("Weatherspoon"). Claims 2-5, 10, 11, 16-19, 24, 25, 30-33, 38 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chandrashekhar, Giniger and Weatherspoon, and further in view of USP 6,088,451 ("He"). The Applicant respectfully traverses these rejections at least based on the following remarks.

## **I. Examiner's Response to Arguments in the Final Office Action and the Advisory Office Action**

The Applicant initially clarifies that an "originating access device", is disclosed as a "wireless" client device, which communicates to an access point in a wireless network, as supported for example, in Figs. 3 and 6, and the related description in the specification.

With regard to the rejection of independent claims 1, 15 and 29 under 103(a), the Examiner states the following in the Advisory Office Action:

"Chandrashekhar prior art discloses a ...communications link between two network nodes to perform an authentication procedure... discloses communications completed over a **wireless communications network using access points**. (see Chandrashekhar paragraph [0112], lines 1-5; paragraph [0112], lines 27-28)."

The Applicant initially points out that Chandrashekhar merely discloses a hybrid wired/wireless network authentication procedure. Chandrashekhar however, does not disclose an access point. Even assuming that an access point may be used in the wireless network, **Chandrashekhar still does not disclose the use of PHY channels on an access point or on an originating (wireless) access device to perform the multiple encryption process**, as recited in Applicant's claim 1.

The Examiner relies on Giniger to disclose "authenticating the (wireless) communication session by authenticating the originating (wireless) access device" (see Final Office Action at page 5). Giniger merely discloses multiple computers coupled to a router data base for centralized encryption in a wired network. **Giniger, however, does not disclose a hybrid network, let alone an access point and "authenticating the (wireless) communication session by authenticating the originating (wireless) access device" as alleged by the Examiner.**

In this regard, the Examiner is required to cite for factual support from Weatherspoon, to disclose the deficiencies of Chandrashekhar and Giniger, namely **"receiving on a first PHY channel of an access point**, a request for initiation of a communication session **from an originating (wireless) access device**; **authenticating** said communication session by authenticating said **originating (wireless) access device using a second PHY channel**; and **hosting said communication session over a third PHY channel**, said third PHY channel

**established between said access point and said originating (wireless) access device,**” as recited in Applicant’s claim 1.

The Examiner also states the following in the Advisory Office Action:

“For claim 1, the claim limitation for the first PHY channel specifies channel between the access point and originating access device. For claim 1, **the claim limitation for the third PHY channel specifies a channel between the access point and originating access device.**”

See the Advisory Office Action at page 2 (emphasis added). The Applicant reminds the Examiner that Applicant’s “originating access device” in claim 1, refers to a **“wireless** originating access device”, and **not any device**, as alleged by the Examiner.

The Examiner further states the following in the Advisory Office Action:

“For claim 1, there is no limitation that restricts the second PHY channel between the access point and the originating access device. Claim 1 limitation states: “authenticating said communication session by authenticating said access using a second PHY channel”. **The result of this communication channel is to authenticate access for communications over the third PHY channel.** The control channel or second PHY channel is used to authenticate the originating access device. Figure 4 of the application discloses that the client transmits a client identity such as a password to an authentication server for authentication. Paragraph [0025] of the specification discloses that authentication information is transferred to an authentication server using a second PHY channel. The Weatherspoon prior art disclosing the usage of an authentication server appears to be equivalent to application’s usage of an authentication server...”

See the Advisory Office Action at page 2 (emphasis added). The Examiner’s statement “...**The result of this communication channel is to authenticate access for communications over the third PHY channel**” seems to allege that the result of the authentication of the communication session, is establish **communication with any authenticated device that connects to the third PHY channel**. The Applicant respectfully disagrees, and again refers the Examiner to Applicant’s claim 1, which recites “...said **third PHY channel established between said access point and said originating (wireless) access device.**” In other words, in the hosted communication session after authentication, **the originating (wireless) access device is connected to the third PHY channel of the access point.**

The Examiner further states the following in the Advisory Office Action:

“The **authentication process enables access to any device on the wired LAN including the originating access device.** This particular access to any wired device includes establishing a data channel between the AP and any device including the

originating access device. (Weatherspoon col. 5, lines 29-34: access between AP and any device including originating access device.)”

See the Advisory Office Action at page 2 (emphasis added). The Applicant respectfully disagrees, and refers the Examiner to Weatherspoon’s abstract:

**“If the wireless device is valid, the AP opens a control channel with the authentication server. The AP transmits the first and second authentication messages to the authentication server. If the authentication server validates the access point and the operator’s logon name and password, it will authorize access to the wired network.”**

See the Weatherspoon’s abstract (emphasis added). Weatherspoon discloses that the control channel 112 (the alleged second PHY channel) is established after authenticating the wireless device 106A (the alleged originating wireless access device), and not with the wired computer device 16A. Furthermore, the Applicant also points out that Weatherspoon in Fig. 2, clearly discloses that the **wired computer device 16A establishes** a LAN connection 122 (the alleged third PHY channel) **directly to both the AP 102A and the authentication server 110**. In this regard, the **authentication of the wired computer device 16A is independent of the AP 102A**, thus refutes the Examiner’s allegation that the **AP’s 102A “authentication process enables access to any device on the wired LAN 122**, including the originating access device”.

Accordingly, since Weatherspoon discloses that the LAN connection 122 (the alleged third PHY channel), is established **directly between the wired computer device 16A and the authentication server 110**, Weatherspoon at least does not disclose or suggest “...said **third PHY channel established between said access point and said originating (wireless) access device**,” as recited in Applicant’s claim 1. Therefore, the Applicant maintains that Weatherspoon does not overcome the deficiencies of Chandrashekhar and Giniger. Applicant’s claim 1 is submitted to be allowable. Claims 5 and 29 are submitted to be allowable based on the same rationale of claim 1.

## **II. Rejection of Independent Claims 1, 15 and 29 Under 35 U.S.C. 103(a)**

### **A(1). Independent Claims 1, 15 and 29**

The Applicant maintains the arguments in the 7/7/09 response to Final Office Action. The Examiner is further referred to Applicant’s arguments stated in Section I above. The Applicant submits that claims 1, 15 and 29 are allowable.

### **A(2). Dependent Claims 6-9, 12-14, 20-23, 26-28, 34-37 and 40-42**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 15 and 29 under 35 U.S.C. § 103(a) as being unpatentable by

the combination of Chandrashekhar, Giniger and Weatherspoon has been overcome and requests that the rejection be withdrawn. Claims 6-9, 12-14, 20-23, 26-28, 34-37 and 40-42 depend from independent claims 1, 15, and 29, respectively, and are, submitted to be allowable at least for the reasons stated above with regard to allowability of claim 1.

### **III. Rejection of Dependent Claims 2-5, 10-11, 16-19, 24-25, 30-33 and 38-39 Under 35 U.S.C. 103(a)**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 15 and 29 under 35 U.S.C. § 103(a) as being unpatentable by the combination of Chandrashekhar, Giniger and Weatherspoon has been overcome and requests that the rejection be withdrawn. Additionally, He does not overcome the deficiencies of Chandrashekhar, Giniger and Weatherspoon. Claims 2-5, 10-11, 16-19, 24-25, 30-33 and 38-39 depend from independent claims 1, 15, and 29, respectively, and are, consequently, also respectfully submitted to be allowable at least for the reasons stated above with regard to allowability of claim 1.

### **CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-42 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Date: August 14, 2009

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Respectfully submitted,  
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